

1561. Misbranding of Nembutal Capsules and sodium phenobarbital capsules. U. S. v. H. Otis Fadal. Plea of guilty. Fine, \$600; sentence of 6 months in jail. Jail sentence suspended and defendant placed on probation for 2 years. (F. D. C. No. 14237. Sample Nos. 60900-F, 61558-F, 61561-F.)

INFORMATION FILED: February 27, 1945, Western District of Texas, against H. Otis Fadal, a member of the partnership trading as Fadal's Square Drug Store, at Waco, Tex.

INTERSTATE SHIPMENT: Between the approximate dates of December 11, 1943, and April 12, 1944, from Chicago, Ill., and Kansas City, Mo., of quantities of *Nembutal Capsules* and *sodium phenobarbital capsules*.

LABEL, WHEN SHIPPED: "Capsules Nembutal * * * (Pentobarbital Sodium, Abbott) Warning: May be habit forming 1½ grs. * * * Caution: To be used only by or on the prescription of a physician or dentist * * * Abbott Laboratories," or "Filled Capsules Phenobarbital Sodium 1½ Grs. (Barbituric Acid Derivative) Yellow Warning May Be Habit Forming Caution: To be used only by or on the prescription of a physician SE M CO The S. E. Massengill Co. * * * Bristol, Tenn.-Va."

NATURE OF CHARGE: That, between the dates of April 10 and May 8, 1944, the defendant removed a number of capsules from one of the bottles labeled "Capsules Phenobarbital" and repacked the capsules into an unlabeled bottle; that, on or about May 8, 1944, the defendant removed from the unlabeled bottle a number of capsules, repacked them in an unlabeled envelope, and sold them without a prescription; and that, on May 9, 1944, the defendant removed a number of capsules from the unlabeled bottle, repacked them in an envelope labeled "Nembutal 1½ gr." and sold them without a prescription. The information also charged that, on or about May 9, 1944, the defendant removed from the bottle labeled "Capsules Nembutal" a quantity of capsules and repacked them in an envelope bearing the label "Nembutal 1½ gr."

The information charged further that the acts of the defendant resulted in the drugs being misbranded in the following respects: Section 502 (d), the drugs contained a chemical derivative of barbituric acid, which derivative has been found to be, and by regulations designated as, habit forming, and the envelopes bore no labels containing the name and quantity or proportion of such derivative and, in juxtaposition therewith, the statement "Warning—May be habit forming"; Section 502 (f) (1), the envelopes bore no labeling containing directions for use; Section 502 (f) (2), they bore no labeling containing warnings against use in those pathological conditions where the use of the drugs might be dangerous to health, or against unsafe dosage or methods or duration of administration, in such manner and form as are necessary for the protection of users; Section 502 (e), the envelopes containing the *phenobarbital capsules* failed to bear a label containing the common or usual name of the drug, "Sodium Phenobarbital"; and, Section 502 (a), the label statement "Nembutal," borne on one of the envelopes containing the *phenobarbital capsules*, was false and misleading.

DISPOSITION: March 1, 1945. A plea of guilty having been entered by the defendant, the court imposed a fine of \$600 and sentenced the defendant to serve 6 months in jail. The jail sentence was suspended, and the defendant was placed on probation for 2 years.

1562. Misbranding of Col-Chex, Diarrhea and Flux Remedy, and Coldex. U. S. v. C. B. Drug Sales Co., Inc. Plea of guilty. Fine, \$100. (F. D. C. No. 11332. Sample Nos. 35395-F to 35397-F, incl.)

INFORMATION FILED: February 14, 1944, Western District of North Carolina, against the C. B. Drug Sales Co., Inc., Charlotte, N. C.

ALLEGED SHIPMENT: Between the approximate dates of December 31, 1942, and March 11, 1943, from the State of North Carolina into the State of South Carolina.

PRODUCT: Analyses disclosed that the *Col-Chex* was composed of a mineral oil base containing camphor, menthol, oil of Eucalyptus, and ephedrine; that the *Diarrhea and Flux Remedy* was a mixture containing salol, chalk, sodium phenolsulfonate, bismuth salicylate, and plant material; and that the *Coldex* was a mixture containing 20.4 grains of sodium salicylate per fluid ounce and also containing menthol and camphor, emodin-bearing drugs, and other plant material.

NATURE OF CHARGE: *Col-Chex*, misbranding, Section 502 (a), the label statements, "Col-Chex for Nose & Throat * * * Col-Chex is recommended as an aid in preventing colds and to check acute symptoms of trouble in nasal